

REMARKS

I. Status of Claims

Claims 31-32, 35-39, 45-68, and 85-88 are pending. Claims 31-32, 35, 39, and 88 are independent. Claims 1-30, 33-34, 40-44, and 69-84 are canceled without prejudice and/or disclaimer to the subject matter therein. Claims 31, 32, 35, 46, 57, 78, and 88 are amended. Claim 39 is allowed.

Claims 31-32, 34-35, 37-38, 46-47, 53, 61, 64-68, 74, 82 and 85-88 stand rejected under 35 U.S.C. 102(a or e) as allegedly being anticipated by U.S. Patent No. 6,219,577 to Brown III, et al. Claims 33 and 36 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Brown '577 in view of U.S. Patent No. 5,423,744 to Gencheff et al. Claim 45 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Brown '577 in view of U.S. Patent No. 6,450,989 to Dubrul et al. Claims 48-49 and 69-70 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Brown '577 in view of U.S. Patent No. 5,527,282 to Segal. Claims 48-49 and 69-70 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Brown '577 in view of U.S. Patent No. 6,142,987 to Tsugita. Claims 50-52, 54-58, 62-63, 71-79, and 83-84 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Brown '577 in view of U.S. Patent No. 6,280,411 to Lennox, U.S. Patent No. 6,369,039 to Palasis et al., or U.S. Patent No. 6,638,246 to Naimark et al. Claims 59-60 and 80-81 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Brown '577 in view of U.S. Patent No. 5,985,307 to Hanson et al.

II. Pending Claims

Claims 31-32, 35, and 88 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Brown '577.

The Applicants submit that claim 31 is at least patentable over Brown '577 because it recites, "...a cylindrically shaped expansion member...an inner flow passage positioned between the catheter and cylindrically shaped expansion member...while the inner flow passage allowing blood or bodily fluids to flow through said cylindrically shaped expansion member."

PATENT
U.S. App. No. 09/997,855
Docket No.: 12013/80601
RCE with Amendment and Reply to Sept. 8, 2006 Advisory Action

The Applicants submit that claim 32 is at least patentable over Brown '577 because it recites, "...a cylindrically shaped expansion member...while allowing blood or bodily fluids to flow through said cylindrically shaped expansion member via an inner flow passage."

The Applicants submit that claim 35 is at least patentable over Brown '577 because it recites, "...a cylindrically shaped expansion member having at least portions of a proximal end, a middle portion, and a distal end coated with a medicament."

The Applicants submit that claim 88 is at least patentable over Brown '577 because it recites, "...a cylindrically shaped expansion member forming a continuous circumferential contact surface."

First, regarding independent claims 31 and 32, the delivery device of Brown '577 does not disclose an inner flow passage or perfusion lumen which allows blood or bodily fluids to flow through the expandable member. Rather, as stated in column 11, lines 9-10 of Brown '577, "the design of the present invention obviates the need for a perfusion lumen." (emphasis added) Brown '577 specifically disclaims the use of a separate perfusion lumen and points out that the lack of one is a greatly advantageous over catheters having electrodes within or on the surface of the dilation member. See also 10-11:67, 1-2. Instead, the catheter body of Brown '577 has spaced electrodes 24 with gaps located between adjacent electrodes 24 sufficient to allow blood to flow through the artery during electrical pulsing and drug delivery without a separate perfusion lumen.

For at least these reasons, claims 31 and 32, and their dependent claims, are patentable over Brown '577 and the cited references.

Next, with respect to claim 35, Brown '577 does not disclose a cylindrically shaped expansion member having at least portions of a proximal end, a middle portion, and a distal end coated with a medicament. Comparatively, Brown '577, in column 10, lines 60-64, states, "one of the novel and important features of the present invention is that since the polymer coating is present only in the middle of the electrodes 24, after expansion of the network, the polymer matrix is positioned on the vessel wall or tissue." (emphasis added) Therefore, surface area of

PATENT
U.S. App. No. 09/997,855
Docket No.: 12013/80601
RCE with Amendment and Reply to Sept. 8, 2006 Advisory Action

contact between the electrode and the vessel wall is limited to the central portion of the arc shaped electrodes. In contrast, in the Applicant's invention, the cylindrical shape and the coating of at least portion of the proximal end, middle portion, and distal end of the expansion member enables maximum tissue contact along the entire length of the cylindrically shaped expansion member.

At least based on these distinctions, claim 35 and its dependent claims are patentable over Brown '577 and the cited references.

Lastly, regarding claim 88, Brown '577 does not disclose a cylindrically shaped expansion member forming a continuous circumferential contact surface. Brown '577, as stated herein above, discloses a catheter body formed of spaced electrodes. The electrodes are spaced to allow blood to flow through the artery during electrical pulsing and drug delivery. Lacking any discussion/and or suggestion of a continuous circumferential contact surface, Brown '577 fails to disclose or suggest the limitations of claim 88.

For at least these reasons, claim 88 and its dependent claims are patentable over Brown '577 and the cited references.

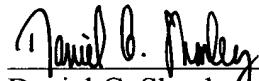
III. Conclusion

In view of the above amendments and remarks, it is believed that the above-identified application is in condition for allowance, and notice to that effect is respectfully requested. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

The Commissioner is authorized to charge any fees or credit any overpayments which may be incurred in connection with this paper under 37 C.F.R. §§ 1.16 or 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,

Date: November 8, 2006



Daniel G. Shanley
Reg. No. 54,863

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201